

  
**भारत का राजपत्र**  
**The Gazette of India**

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 16]  
No. 16]

नई दिल्ली, शुक्रवार, अप्रैल 28, 1989/ वैशाख 8, 1911  
NEW DELHI, FRIDAY, APRIL 28, 1989/VAISAKHA 8, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जगह संकलन  
में कम से रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

**RAJYA SABHA**

The following Bills were introduced in the Rajya Sabha on the 28th April, 1989:—

**I**

**BILL NO. X OF 1989**

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1989.
2. After article 281 of the Constitution, the following articles shall be inserted, namely:—

“281A. (1) The Governor shall within one year from the commencement of this Act, and thereafter at the expiration of every fifth year, by order, constitute a State Finance Commission which shall consist of a Chairman and three other members to be appointed by the Governor.

(2) The Legislature of the State may by law determine the qualifications and other conditions for appointment as members of the State Finance Commission.

Short  
title.

Insertion  
of new  
articles  
281A  
and  
281B.

State  
Finance  
Commis-  
sions.

(3) it shall be the duty of the State Finance Commission to make recommendations to the Governor as to:—

(a) the distribution of funds between the departments of the Government and the Panchayat institutions, including Zilla Parishads, Gram Panchayats and Gram Sahas,

(b) the principles which should govern the distribution of funds referred to in sub-clause (a) above.

Recom-  
menda-  
tions of  
the  
State  
Finance  
Commis-  
sion.

281B. The Governor shall cause every recommendation made by the State Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly or each House of the Legislature of the State as the case may be."

## STATEMENT OF OBJECTS AND REASONS

To ensure mass participation in the development process, the decentralisation of powers at all levels is imperative. The decentralisation of administrative powers, which ensures the broadest participation, must be matched with the resources allocations at all levels. Experience has shown that local-self Government institutions, as existing now can not discharge their assigned responsibilities, with the resources placed at their disposal.

In order to obviate these loopholes in the existing system of resources distribution to the local-self Government Institutions, the need to design a mechanism or agency for equitable distribution of State resources is being felt. State Finance Commissions can become such instruments. An enabling provision in the Constitution for this purpose is, therefore, necessary.

CHITTA BASU.

Hence, this Bill.

## II

## BILL NO. IX OF 1989

*A Bill to provide for the fixation of wages and for improvement of working conditions of domestic workers and for matters connected therewith.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short  
title,  
extent,  
commen-  
cement  
and  
appli-  
cation.

1. (1) This Act may be called the Domestic Workers' (Conditions of Service) Act, 1989.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to every employer employing one or more workers for domestic work in his house.

Definition.

2. In this Act, unless the context otherwise requires,—

“domestic worker” means any worker employed for cooking, housing-cleaning and attending to all other jobs connected with the household chores.

Applica-  
tion of  
the provi-  
sions of  
the  
Indus-  
trial  
Disputes  
Act 1947.

3. (1) The provisions of the Industrial Disputes Act, 1947, shall so far as practicable and subject to the modifications herein specified, apply to, or in relation to, a domestic worker as they apply to, or in relation to, a workman within the meaning of that Act.

14 of 1947.

(2) The provisions of section 25F of that Act, in its application to a domestic worker, shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a domestic worker had been substituted, namely:—

(a) three months in case of a domestic worker who has been in continuous service for a period of not less than two years, and

(b) two months in case of other domestic workers.

4. Where any domestic worker has been in continuous service, whether before or after the commencement of this Act, for not less than one year, and—

Payment of gratuity to domestic workers.

(i) his services are terminated by the employer for any reason whatsoever; or

(ii) he voluntarily resigns from service; or

(iii) he dies while in service, the domestic worker or, in the case of his death, his nominee or if there is no nomination in force at the time of the death of the domestic worker, his heirs or successors, as the case may be, shall without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, by the employer on such termination, resignation or death, gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

5. (1) The Central Government may, by order and in consultation with the representatives of the domestic workers from amongst the Unions or Associations of the domestic workers,—

Fixation of wages by the Government.

(a) fix rates of wages in respect of the domestic workers; and

(b) revise, from time to time, at such intervals, as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of domestic workers for time work and for piece work.

6. Every domestic worker shall be paid wages by his employer at the rates which shall in no case be less than the rates of wages specified in the Order referred to in Section 5.

Payment of wages.

7. No domestic worker shall be required to work, or allowed to work, for more than eight hours during the day, exclusive of the time for meals and leisure.

Hours of work.

8. Every domestic worker shall be allowed during the period of seven consecutive days, a rest for a period of not less than twentyfour consecutive hours.

Period of rest.

9. Every domestic worker, who has put in service for six months, shall be entitled every year to,—

Leave entitlement.

(i) casual leave for twelve days,

(ii) sick leave for twenty-one days, and

(iii) earned leave at the rate of one day for a period of 11 days spent on duty.

Mainten-  
ance of  
registers  
and other  
records.

10. Every employer of a domestic worker shall prepare and maintain such registers, records and muster-rolls, and in such manner, as may be prescribed by rules made under this Act.

Appoint-  
ment of  
Inspec-  
tors.

11. (1) The Central Government may, by notification in the Official Gazette, appoint such persons, as it thinks fit, to be the Inspectors for the purposes of this Act and may define the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Power of  
Inspec-  
tors.

12. An Inspector may,—

(a) require any employer to produce any register, muster-roll or other documents relating to the domestic workers employed by him and examine such documents;

(b) take, on the spot or otherwise, evidence of any person for the purpose of ascertaining whether the provisions of this Act or rules made thereunder or any other Act made applicable to a domestic worker are complied with, irrespective whether any other authority has been empowered with the same power under any other law.

Punish-  
ment.

13. If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to one thousand rupees notwithstanding any other punishment to which he may be liable for the contravention of any other law for the time being in force governing the domestic workers.

Power to  
make  
rules.

14. The Central Government may, by notification in official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

There are millions of domestic servants working as maid-servants or male-servants to attend to house-hold and other personal work. The working conditions of these domestic servants are miserable and primitive. They are required to work for almost 18 hours a day. There is no protection for these workers under any statute as on today. They are neither paid the minimum wages nor their hours of service are determined. They are not given any rest or leisure time during the day. They are also not given any benefits such as gratuity, provident fund, bonus, leave with wages, holidays etc. Their services can also be terminated at any time without notice and without any compensation by their employers.

The domestic servants have been agitating for better service conditions throughout the country. It is, therefore, very essential to regulate their service conditions.

Here, the Bill

DR. BAPU KALDATE

### FINANCIAL MEMORANDUM

Clause 11 of the Bill provides for appointment of Inspectors for examining the documents relating to employment of the domestic workers. The Inspectors will be appointed both by the Central Government and the State Governments within their jurisdiction. It is not possible at this stage the estimate of the expenditure involved so far as the Central Government is concerned.

---

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. The delegation of legislative power is of normal character.

## III

BILL NO. XI OF 1989

*A Bill to provide for the abolition of capital punishment.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Abolition of Capital Punishment Act, 1989.

Short title.

2. The capital punishment for any offence, whatsoever, is hereby abolished.

Abolition  
of capital  
punish-  
ment.

45 of 1860.

3. Notwithstanding anything contained in the Indian Penal Code or any other law, for the time being in force, maximum punishment for any offence shall not be more than imprisonment for life.

Maximum  
punish-  
ment  
for any  
offence.

## STATEMENT OF OBJECTS AND REASONS

Life is sacred and precious. So, one must imbibe reverence for life. Vengefulness is wastage of life.

Human beings are born but once, and they cannot be brushed aside and finished by any legal contrivance or a statutory dispensation. The State must not arrogate to itself a legal right to do away with the life of a human being.

Crimes like thefts, murders, assaults, decoities, etc., are undoubtedly grave offences against the society and human life. But they are interwoven with the social, economic, cultural, political and behavioural life-pattern of the community. Such ugly and objectionable deeds are directly the result of an insecure and indigent human society bereft of conditions of equilibrium and equity. The wrong doer or the criminal is, therefore, to be treated as a mental case and should be dealt with charitably and sympathetically without, of course, any misplaced leniency or unwarranted latitude. The emphasis has to be on reformation and education rather than on rejection and retribution.

All forms of death sentence are agonizing and cruel. Neither they cure the disease nor do they solve the problem of crimes. Human and universal experience shows that physical punishments scarcely ensure obedience to the different laws, rules and regulations designed for the good of community and welfare of society.

It must also be remembered that the human machinery set up for the purpose of awarding punishment to the guilty is bound to be full of inbuilt short-comings. Persons inflicting punishments including death sentence are liable to err and the evidence on which a sentence is awarded could be misleading and can cause miscarriage of Justice. A case of miscarriage of Justice in the event of death sentence having been executed can never be rectified for life once ended cannot be brought back. Thus, to keep an offender alive as a prisoner would in any case, be erring on the safeside.

Capital punishment has been abolished in several countries of the world and the experience so far does not indicate any appreciable growth in crime of murder in these countries. Then, why should we in India lag behind in this matter, especially when capital punishment has never been encouraged by our centuries old traditions, morality and ethics.

Death sentence can never be indispensable. What is important to note is that long terms of imprisonment are equally effective. And, what is more, life sentence leaves an opportunity for reformation, almost a re-birth of the criminal, and for a remedy for a possible miscarriage of Justice.

Hence, this Bill.

DR. BAPU KALDATE

SUDARSHAN AGARWAL,  
*Secretary-General.*